
HOUSE BILL No. 1895

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3-4; IC 8-3-1.7-2; IC 8-23.

Synopsis: Transportation matters. Exempts records relating to negotiations between the Indiana department of transportation and a landowner from the requirement that public records be available for inspection and copying while the negotiations are in progress. Provides that the industrial rail service fund may be used to provide \$50,000 annually to the Indiana department of transportation for rail planning activities. Updates a reference to federal law. Relieves the Indiana department of transportation from the requirement that all property taxes on a property acquired by the department for highway purposes be paid except when the department acquires the entire parcel.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Roads and Transportation.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1895

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
- 4 from section 3 of this chapter and may not be disclosed by a public
- 5 agency, unless access to the records is specifically required by a state
- 6 or federal statute or is ordered by a court under the rules of discovery:
- 7 (1) Those declared confidential by state statute.
- 8 (2) Those declared confidential by rule adopted by a public
- 9 agency under specific authority to classify public records as
- 10 confidential granted to the public agency by statute.
- 11 (3) Those required to be kept confidential by federal law.
- 12 (4) Records containing trade secrets.
- 13 (5) Confidential financial information obtained, upon request,
- 14 from a person. However, this does not include information that is
- 15 filed with or received by a public agency pursuant to state statute.
- 16 (6) Information concerning research, including actual research
- 17 documents, conducted under the auspices of an institution of



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higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Records relating to negotiations between the department of transportation and landowners if the records are created in anticipation of the negotiations or while the negotiations are in progress.

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(C) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

~~(C)~~ (D) When disclosing a final offer under clause ~~(B)~~, (C) the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(E) Notwithstanding clause (B), the terms of the final offer of public financial resources communicated by the Indiana department of transportation to a landowner shall be available for inspection and copying under section 3 of this chapter after negotiations with that landowner have terminated.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

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- (9) Minutes or records of hospital medical staff meetings.
- (10) Administrative or technical information that would jeopardize a recordkeeping or security system.
- (11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
- (12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).
- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:
- (A) the donor requires nondisclosure of his identity as a condition of making the gift; or
 - (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.
- (16) Library or archival records:
- (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.
- However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.
- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

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(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 8-3-1.7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) There is created

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a fund known as the industrial rail service fund. The fund shall consist of money distributed to the fund by IC 6-2.5-10-1 and IC 8-3-1.5-20. Amounts held in the fund may only be used to do the following:

(1) Provide loans to railroads that will be used to purchase or rehabilitate real or personal property that will be used by the railroad in providing railroad transportation services.

(2) Pay operating expenses of the Indiana department of transportation, subject to appropriation by the general assembly.

(3) Make a grant to serve as local matching funds in carrying out a demonstration project for the relocation of railroad lines from the central area of a city by the Federal Highway Administration under Section 163 of the Federal-Aid Highway Act of 1973 (P.L.93-87), as amended.

(4) Provide money for the high speed rail development fund under IC 8-23-25.

(5) Provide grants to a railroad owned or operated by a port authority established under IC 8-10-5.

(6) Make grants to a Class II or a Class III railroad for ~~the rehabilitation of railroad tracks.~~ **railroad infrastructure improvements.**

(7) Provide fifty thousand dollars (\$50,000) annually to the Indiana department of transportation for rail planning activities. Money distributed under this subdivision does not revert to the state general fund at the end of a state fiscal year.

(b) This subsection is effective until July 1, 1995. A grant made under subsection (a)(3) may not exceed forty percent (40%) of the gross sales and use tax receipts deposited in the fund (under IC 6-2.5-10-1) during the fiscal year preceding the fiscal year in which the grant is made.

(c) This subsection is effective after July 1, 1995. A grant made under subsection (a)(3) may not exceed twenty-five percent (25%) of the gross sales and use tax receipts deposited in the fund (under IC 6-2.5-10-1) during the fiscal year preceding the fiscal year in which the grant is made.

(d) A grant made under subsection (a)(5) may not exceed twenty percent (20%) of the gross sales and use tax receipts deposited in the fund under IC 6-2.5-10-1 during the fiscal year preceding the fiscal year in which the grant is made.

(e) No demonstration project may receive more than one (1) grant under subsection (a)(3) in any fiscal year.

(f) A grant program under subsection (a)(6) must:



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(1) provide a grant to a recipient of not more than seventy-five percent (75%) of the cost of the project; and

(2) require a grant recipient to pay for not more than twenty-five percent (25%) of the cost of a project.

SECTION 3. IC 8-23-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.1. The department is responsible for the following activities:

(1) The identification, development, coordination, and implementation of the state's transportation policies.

(2) The approval of applications for federal transportation grants from funds allocated to the state:

(A) from the Highway Trust Fund (23 U.S.C.);

(B) from the Aviation Trust Fund (49 U.S.C.);

(C) through the ~~Urban Mass Transportation Administration (49 U.S.C. 1601 et seq.)~~ **Federal Transit Administration (49 U.S.C. 5301 et seq.)**; or

(D) from any other federal grant that has a transportation component.

(3) The review, revision, adoption, and submission of budget proposals.

(4) The construction, reconstruction, improvement, maintenance, and repair of:

(A) state highways; and

(B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana transportation finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.

(5) The administration of programs as required by law, including the following:

(A) IC 8-3-1 (railroads).

(B) IC 8-3-1.5 (rail preservation).

(C) IC 8-21-1 (aeronautics).

(D) IC 8-21-9 (airports).

(E) IC 8-21-11 (aviation development program).

SECTION 4. IC 8-23-7-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 31. (a) Whenever the department acquires real property, rights, or easements for the construction, repair, and maintenance of a state highway, a legal description of all rights-of-way and easements, including the area of the land acquired, shall be filed by the department in the office of the recorder in the county in which the real property is located. The description shall be recorded in the deed records of the county. No fee may be charged for filing and recording the description. The



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department shall also file the description with the county auditor.

(b) Real property and interests in real property acquired for permanent highway purposes are exempt from taxation from the date of acquisition; ~~provided that~~ **however, when the department purchases the entire interest in a parcel**, all taxes, interest, and penalties recorded on the property tax duplicates **must** have been paid. Where real property or interests in real property are acquired after the assessment date of any year but before December 31, the taxes on the property in the ensuing year are not a lien on the property and shall be removed from the tax duplicates by the county auditor. A property owner who on or after March 1, 1965, conveyed real property or rights in real property to the department and who after July 8, 1965, is assessed taxes upon the property or rights conveyed and who pays the taxes by reason of the failure of the department to properly record the interest in the real property conveyed with the county auditor and recorder for tax purposes may recover the amount of the taxes from the department.

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